

LOCAL GOVERNMENT FINANCIAL TEST

A local government that is attempting to qualify for use of the local government financial test must meet the following requirements:

- (A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds; or
- (B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement;
 - (1) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
 - (2) A ratio of annual debt service to total expenditures less than or equal to 0.20.

The local government must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant (or appropriate State agency).

A local government is not eligible to assure its obligations under CFR 258.74(f), if it:

- (A) Is currently in default on any outstanding general obligation bonds; or
- (B) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or
- (C) Operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or
- (D) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement.

The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) Disclosure, must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to

date, and the estimated landfill life in years.

The local government must place the following items in the facility's operating record:

- (A) A letter signed by the local government's chief financial officer that:
 - (1) Lists all the current cost estimates requested in the financial test;
 - (2) Provides evidence and certifies that the local government meets the requirements of CFR 258.74(f);
- (B) The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits;
- (C) A report to the local government from the local government's independent certified public accountant (CPA) or the appropriate State agency, based on performing an agreed upon procedures engagement relative to the financial ratios required by CFR 258.74(f). The CPA or State agency's report should state the procedures performed and the CPA or State agency's findings;
- (D) A copy of the comprehensive annual financial report (CAFR), used to comply with CFR 258.74(f), or a certification that the requirements of General Accounting Standards Board Statement 18 have been met.

A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner or operator's fiscal year, it must obtain alternative financial assurance that meets the requirements of 329 IAC 10-39, place the required submissions for that assurance in the operating record, and notify OSHWM that the local government no longer meets the criteria of the financial test and that alternate assurance has been obtained.

The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under 40 CFR 258.74(f) is determined as follows:

- (A) If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to, but not more than 43 percent of the local government's total annual revenue.
- (B) If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB

storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this paragraph. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed 43 percent of the local government's total annual revenue.

The following terms are defined as follows:

Deficit - total annual revenues minus total annual expenditures;

Total revenues - revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by the local government on behalf of a specific third party;

Total expenditures - all expenditures excluding capital outlays and debt repayment;

Cash plus marketable securities - all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations, such as pensions.

Debt service - the amount of principal and interest due on a loan in a given time period, typically the current year.

